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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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MAY 19 1997

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)
)
MOBILEMEDIA CORPORATION, et al.) WT DOCKET NO. 97-115
)
Application for Authorization and License)
of Certain Stations in Various Services)

To: The Honorable Joseph Chachkin

PETITION TO INTERVENE

David A. Bayer ("Intervenor"), by his attorneys and pursuant to Section 309(e) of the Communications Act of 1934, as amended, and Section 1.223 of the Commission's rules, hereby petitions to intervene in the above-captioned proceeding. In support, the following is shown:

The Commission designated this matter for hearing by its order released on April 8, 1997.^{1/} The Hearing Designation Order did not name the Intervenor or any of the other officers or directors of MobileMedia Corporation, debtor in possession (the "Company") as a party to the proceeding. However, the Hearing Designation Order may be read to present issues directly relating to the qualifications of the Company's officers and directors, including the Intervenor.^{2/}

Section 1.223(a) of the Commission's rules permits a "party in interest" to intervene as a matter of right in cases involving applications for construction permits and station licenses, provided the petition to intervene is filed within 30 days after the publication in the FEDERAL REGISTER of the issues designated for hearing. This Petition to Intervene is timely filed

^{1/} *MobileMedia Corporation, et al.*, Order to Show Cause, Hearing Designation Order, and Notice of Opportunity for Hearing for Forfeiture, FCC 97-124 (released April 8, 1997) (the "Hearing Designation Order").

^{2/} See, e.g., Hearing Designation Order at ¶ 14 (a), (c) and (d).

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because it is filed within seven days of the May 12, 1997 FEDERAL REGISTER publication of the Hearing Designation Order. A grant of this Petition will not delay the proceeding.

A "party in interest" pursuant to Section 1.223(a) is a person with standing to participate in the proceeding.^{3/} The attached Declaration of the Intervenor establishes that he is a "party in interest" under Section 1.223(a). Apart from his relationship to the Company, the Intervenor is a party to pending applications at the Commission, including a pending mobile satellite application,^{4/} and in all likelihood will be a party to other applications filed at the Commission. The Intervenor seeks to participate in this proceeding in order to remove any questions as to his qualifications to be a Commission licensee. Unless he is allowed to intervene in this proceeding, the Intervenor cannot adequately defend his interests in this case, in which an adverse result could damage his interests in other proceedings.^{5/} The Intervenor therefore has standing to participate in this case. The Petitioner accordingly is entitled to intervene as of right pursuant to Section 1.223(a)^{6/}

In the event the Intervenor is for any reason not deemed to be an intervenor as of right pursuant to Section 1.223(a), he requests that he be permitted to intervene as a matter of

^{3/} See *Radio Lares*, 63 FCC 2d 305 (1977); *Juarez Communications Corp.*, 56 RR 2d 961 (Rev. Bd. 1984).

^{4/} Leo One USA Corporation, File Nos. 57-DSS-P/LA94(48), 27-SAT-AMEND-95. Mr. Bayer is a controlling owner of that applicant.

^{5/} One party has already filed a request in the Leo One proceeding (see note 4 *supra*) asking that any grant of the application be conditioned on the outcome of this proceeding. Accordingly, this is not a case where intervention is sought merely for the purpose of protecting a person's reputation.

^{6/} See *Palmetto Communications Co.*, 6 FCC Rcd 5023 (Rev. Bd. 1991); *Borkowski v. Fraternal Order of Police, Phila. Lodge No. 5*, 155 F.R.D. 105 (E.D. Pa. 1994); *Knapp v. Bankers Sec. Corp.*, 17 F.R.D. 245 (E.D. Pa. 1954).

discretion pursuant to Section 1.223(b). For the reasons shown above, the Intervenor has a substantial interest in the outcome of this proceeding because it may affect other applications to which he is a party. Intervenor's participation in the case will assist the Commission in the determination of the issues in this proceeding because the Intervenor, who learned of the derelictions in question and caused them to be reported to the Commission, has personal knowledge of certain of the matters in issue.

Paragraph 15 (b) of the Hearing Designation Order requires that the Presiding Officer certify all petitions to intervene to the Commission. The Intervenor accordingly requests such a certification for this Petition.

Respectfully submitted,

DAVID A. BAYER

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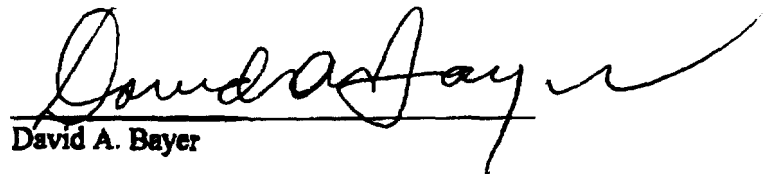
May 19, 1997

DECLARATION OF DAVID A. BAYER

David A. Bayer hereby declares as follows:

1. I am a Director of MobileMedia Corporation, debtor in possession (the "Company") and served as Interim Chief Executive Officer of the Company from July 17, 1996 through August 30, 1996 and from November 19, 1996 through February 10, 1997.
2. In addition to my role as a director of the Company, I am also a party to non-Company applications pending at the Federal Communications Commission (the "Commission"), including an application for satellite authorization by Leo One USA Corporation, a company in which I am a controlling owner. Another party in that proceeding has requested that any grant of the application to which I am a party be conditioned on the outcome of WT Docket No. 97-115, the hearing proceeding involving applications filed by various affiliates of the Company.
3. In my capacity as Interim Chief Executive Officer of the Company, I was made aware that the Company had filed fraudulent applications with the Commission and I caused that matter to be reported to the Commission.
4. It is my expectation that, in addition to the Leo One USA Corporation application and other pending applications to which I am a party, I may become a party to other applications to be filed at the Commission.

I declare under penalty of perjury that the foregoing is true and correct. Executed on May 19, 1997.


David A. Bayer

CERTIFICATE OF SERVICE

Jennifer R. Stone, does hereby state that she caused the foregoing "PETITION TO INTERVENE" to be sent by first-class U.S. mail, postage prepaid, or delivered by hand, this 19th day of May 1997, to the following:

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*Commissioner James H. Quello
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